

accumulate as much as 55-gallons of hazardous waste in containers at or near any point of generation where the wastes initially accumulate which is under the control of the operator of the process generating the waste. See Wisconsin Admin. Code § NR 662.34(3)(a). On August 9, 2023, a 55-gallon container labeled as “Hazardous Waste” located on the second floor of the facility was used to accumulate hazardous waste generated at the facility’s laboratory on the third floor of the facility. Therefore, Respondent was accumulating hazardous waste at a location not near the point of generation where waste initially accumulated (the third-floor lab) and not under the control of the operator of the process generating the waste, and Respondent had not obtained a permit or interim status, nor had Respondent obtained an extension of the 90-day period of hazardous waste accumulation applicable to large quantity generators of hazardous waste. Therefore, Respondent stored hazardous waste without a permit or interim status, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the requirements of Wisconsin Admin. Code § NR 670, because it failed to comply with the conditions for a permit-exemption as described above.

- b. Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the regulations at 40 C.F.R. Part 270 and Wisconsin Admin. Code § NR 670, prohibit the treatment, storage or disposal of hazardous waste without a permit or interim status. A generator may, however, accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the generator complies with all applicable conditions set forth in Wisconsin Admin. Code § NR 662.34(3), including, but not limited to, the requirement to clearly mark each satellite accumulation container holding hazardous waste with the words “Hazardous Waste.” See Wisconsin Admin. Code § NR 662.034(3)(a)(2). On August 9, 2023, three satellite accumulation containers – a 55-gallon container of aerosol waste, a 55-gallon container of coating waste, and a 5-gallon container of parts washer waste – were missing required labeling, and Respondent had not obtained a permit or interim status. Therefore, Respondent stored hazardous waste without a permit or without interim status, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a), and the requirements of Wisconsin Admin. Code § NR 670, because it failed to comply with the conditions for a permit-exemption as described above.
- c. Failure to comply with any of the conditions of Wisconsin Admin. Code § NR 662.34(1), subjects the generator of hazardous waste to the requirements of Wisconsin Admin. Code § NR 665. Under Wisconsin Admin. Code § NR 665.0174, the owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. On August 9, 2023, EPA discovered that Respondent had failed to conduct 12 weekly inspections during the following weeks: 02/12/23 to 03/25/23, 04/02/23, 04/23/23, 05/07/23 to 05/27/23, and

06/11/23. Respondent's failure to conduct weekly inspections of its 90-day container storage area violated Wisconsin Admin. Code § NR 665.0174.

- d. Failure to comply with any of the conditions of Wisconsin Admin. Code § NR 662.34(1), subjects the generator of hazardous waste to the requirements of Wisconsin Admin. Code § NR 665. Under Wisconsin Admin. Code § NR 665.0052(3) and (5), the owner or operator must have a contingency plan that (1) describes arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services; and (2) contains a list of all emergency equipment at the facility that includes each item's location, each item's physical description, and a brief outline of each item's capabilities. On August 9, 2023, EPA discovered that Respondent's contingency plan did not describe emergency arrangements agreed to by local first responders, nor did it contain a list of emergency equipment that included each item's location and a brief outline of each item's capabilities. Respondent's failure to include description of arrangements with local emergency authorities and locations of the emergency equipment in the facility's contingency plan violated Wisconsin Admin. Code § NR 665.0052(3) and (5).
- e. Failure to comply with any of the conditions of Wisconsin Admin. Code § NR 662.34(1), subjects the generator of hazardous waste to the requirements of Wisconsin Admin. Code § NR 665. Under Wisconsin Admin. Code § NR 665.0053(2), the owner or operator must submit a copy of the contingency plan and all revisions of the plan to local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services. On August 9, 2023, Respondent could not demonstrate that it had submitted copies of the facility's contingency plan to the local emergency authorities. Respondent's failure to submit copies of the facility's contingency plan to the local emergency violated Wisconsin Admin. Code § NR 665.0053(2).
- f. Under Wisconsin Admin. Code § NR 679.22(3)(a), containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." On August 9, 2023, two 5-gallon containers of used oil in the Respondent's 90-day storage area were not labeled or marked with the words, "Used Oil." Respondent's failure to label or mark used oil containers with the words "Used Oil" violated Wisconsin Admin. Code § NR 679.22(3)(a).
- g. Under Wisconsin Admin. Code § NR 673.13(4)(a), a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage and compatible with the contents of the lamps. The containers and packages shall remain closed.

Respondent is a small quantity handler of universal waste because it accumulates less than 5,000 kilograms universal waste at any time. On August 9, 2023, one container of used lamps was left open. Respondent's failure to keep this container of used lamps closed, as described above, violated Wisconsin Admin. Code § NR 673.13(4)(a).

3. The EPA and Respondent agree that settlement of this matter for a civil penalty of seven-thousand five-hundred dollars (\$7,500) is in the public interest.
4. EPA is authorized to enter into this Agreement pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and 40 C.F.R. §§ 22.13(b), and 22.18(b)(2)–(3).
5. EPA provided notice of commencement of this action to the state of Wisconsin pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
6. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing as provided at 40 C.F.R. § 22.15(c); (6) waives any right to contest the allegations in this Expedited Settlement Agreement and Final Order and its right to appeal this Expedited Settlement Agreement and Final Order; and (7) waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the ESA.
7. By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violations have been corrected, and (2) Respondent has paid the civil penalty in accordance with paragraph 8.
8. Respondent shall have paid a civil penalty of seven-thousand five-hundred dollars (\$7,500) within 30 days of its receipt of the letter setting forth the opportunity for expedited settlement. Respondent shall pay the penalty using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
9. Respondent shall have sent a notice of payment that states Respondent's name, complete address, and the case docket number to EPA at the following addresses, when it paid the penalty:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Derrick Samaranski
Land Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
Samaranski.derrick@epa.gov and
R5LEECAB@epa.gov

James J. Cha
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
cha.james@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
CINWD_AcctsReceivable@epa.gov

10. The civil penalty is not deductible for federal tax purposes.
11. This Agreement resolves only Respondent's liability for federal civil penalties under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the violations alleged in the Agreement.
12. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
13. Each party shall bear its own costs and fees, if any.
14. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
15. In accordance with 40 C.F.R. § 22.6, the parties consent to service of this Agreement by e-mail at the following valid e-mail addresses: cha.james@epa.gov (for Complainant), and brittany.kernz@heresite.com (for Respondent).
16. Respondent understands that the ESA will become publicly available upon filing.

IT IS SO AGREED,

PETER D. HELLMAN
Name (print)

CEO
Title (print)


Signature

4/10/25
Date

APPROVED BY EPA:

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

In the Matter of:

Heresite Protective Coatings, LLC

Docket No.: RCRA-05-2025-0018

FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Expedited Settlement Agreement and Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED:

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5